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EUR/CE FOR GLANTZ, OSD FOR MITCHELL, PM/SNA FOR RYAN

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TAGS: [PREL](#) [PM](#) [MAPP](#) [MARR](#) [PL](#)
SUBJECT: NINTH US-POLISH SOFA PLENARY MAKES PROGRESS,
ADDRESSES CORE DIFFERENCES

Classified By: CDA Quanrud for reasons 1.4 b and d

¶1. (SBU) U.S. and Polish delegations made good progress during Round Nine of U.S.-Poland SOFA negotiations held in Warsaw August 18-20, and addressed in-depth core differences in areas of taxation, criminal jurisdiction, claims, and burden-sharing. Deputy Defense Minister Stanislaw Komorowski and Deputy Foreign Minister Andrzej Kremer led the Polish delegation. Kurt Amend, Senior Advisor for Security Negotiations and Agreements, led the U.S. delegation.

¶2. (SBU) In the pre-plenary discussion, heads of delegation agreed to cluster unresolved articles around five common themes: a) Individuals and entities that receive privileges and benefits under the U.S.-Poland SOFA; b) Appropriate burdensharing of costs between NATO allies; c) Criminal jurisdiction, judicial custody, and claims; d) Taxation; and e) Sovereignty. The delegation heads further agreed to spend the first day closing out articles where only minor differences remained.

¶3. (SBU) The sides confirmed prior agreement on articles 1, 4, 7, 14, 20, 22, 23, 35, and 36. The sides reached full, provisional agreement on the Preamble; Article 16 Discipline; Article 25 Military Postal Services; Article 26 Telecommunications; Article 28 Currency; Article 31 Health; and Article 34 Labor. The sides agreed to drop Article 8 Use of Force.

¶4. (SBU) Discussion of the cluster of articles related to taxation confirmed strong ongoing differences on point-of-sale v. reimbursement of VAT in Article 18 Official Tax Exemptions; the status of dependents in Article 19 Personal Tax Exemptions; exemption from taxation on importation of household shipment for members of the force in Article 21 Personal Importation and Exportation; and the issue of fees versus taxes in Article 27 Logistical Support and Utilities.

¶5. (SBU) Although the sides made some progress on pre-trial confinement in Article 15 Detention, Temporary Custody and Confinement, there was little movement on Article 13 Jurisdiction. The Polish delegation lumped Article 17 Claims into this cluster, and refused to discuss it without first having resolution of Jurisdiction and Confinement.

¶6. (SBU) With regard to appropriate burdensharing among allies, the Poles were not prepared to lift fees for ranges and facilities in Article 6 Military Exercises, nor for use of airspace in Article 12 Movement of Aircraft and Vessels.

¶7. (C) COMMENT. At the beginning of the round, the Poles clearly hoped for significant gains on substantive provisions due to the change in leadership of the U.S. delegation. On the big issues, however, there was little progress, as the

U.S. re-emphasized key USG redlines in response to Polish positions. That said, the Poles showed flexibility on issues such as Discipline or Use of Force that seemed intractable only a few months ago. The Polish delegation leads remain hamstrung by limitations from above. To conclude this agreement, they will require change in instructions at the ministerial level or, at the right point, the direct involvement of the Foreign Minister. END COMMENT

18. (SBU) Senior Advisor Amend has cleared on this cable.

QUANRUD